



## **RULING ON MOTION**

**IN THE MATTER OF** an Application by New Brunswick Power Corporation pursuant to subsection 107(2) of the *Electricity Act*, S.N.B 2013, c. 7, for approval of an Advanced Metering Infrastructure capital project and a deferral account with respect to the amortization of the remaining book value of its currently installed electricity meters.

and

**IN THE MATTER OF** a Notice of Motion filed by the New Brunswick Power Corporation.

(Matter No. 452)

March 24, 2020

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

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(Matter No. 452)

**NEW BRUNSWICK ENERGY AND UTILITIES BOARD:**

Acting Chairperson:

François Beaulieu

Members:

Michael Costello

Patrick Ervin

Counsel:

Ellen Desmond, Q.C.

Chief Clerk:

Kathleen Mitchell

**APPLICANT:**

New Brunswick Power Corporation:

John Furey

**INTERVENERS:**

Atlantica Centre for Energy:	Colleen d'Entremont
Gerald Bourque:	Per se
J.D. Irving, Limited:	Christopher Stewart
James D. Lane:	Per se
Liberty Utilities (Gas New Brunswick) LP (formerly Enbridge Gas New Brunswick Limited Partnership):	Paul Volpé
Our Environment, Our Choice – Notre Environnement, Notre Choix:	Michael McKinley
Dr. Roger Richard:	Per se
T4G Limited:	Geoffrey Flood
Utilities Municipal:	Scott Stoll
<b>PUBLIC INTERVENER:</b>	Heather Black

## **RULING ON MOTION**

### **A. Background**

- [1] The New Brunswick Power Corporation (NB Power) applied to the New Brunswick Energy and Utilities Board (Board) on August 1, 2019 (Application) for approval of a capital project consisting of the procurement and deployment of Advanced Metering Infrastructure (AMI) and approval of the creation of a deferral account with respect to the amortization of the remaining book value of its currently installed electricity meters.
- [2] The hearing of Matter 452 concluded on January 22, at which time the Board advised both NB Power and other parties that it would be releasing its decision as soon as possible. As of the date of this Ruling, the issuance of the decision was imminent.
- [3] On March 19, NB Power filed correspondence with the Board requesting a delay in the Board rendering its decision. By email on March 20, NB Power confirmed that this correspondence should be considered as a Notice of Motion and that notice of its requested relief had been sent to all parties.
- [4] Upon receipt of this email, the Board advised all parties that they would be provided with the opportunity to write comments on the Motion. The comment period was extended to Monday, March 23 at noon. Four parties did comment, namely Dr. Roger Richard, Mr. Gerald Bourque, Ms. Heather Black and Mr. Scott Stoll.

### **B. Issue**

- [5] The request by NB Power raises the following issue:
- a. Should the matter be adjourned and if so, on what basis?

### **C. Analysis**

- [6] In its requested relief, NB Power states as follows:

In recent days, it has become apparent that the impact of the Covid-19 pandemic in New Brunswick will be both health-related, as well as economic. The necessary measures being taken by all levels of government, as well as private businesses, to

contain and mitigate the spread of the Covid-19 virus will have economic impacts on all Canadians, including New Brunswick electricity ratepayers.

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With respect to Matter 452, assuming the Board approved the capital project, NB Power would be unable to immediately begin the work necessary to successful implementation of the AMI Capital Project. NB Power has recently taken the unprecedented step of moving its operations to mission critical work only until further notice. Mission critical work is restricted to work to ensure the safe operation of generating facilities and NB Power's system to provide continued service for customers, and the required corporate functions to support that objective.

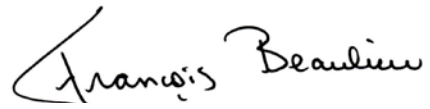
- [7] The Board agrees with NB Power that the necessary measures that are being taken by all levels of government will likely have an economic impact on ratepayers. The Province of New Brunswick is in the midst of a global health crisis that is still evolving. A state of emergency for the Province has been declared. The social and economic impacts of the measures taken to control the spread of COVID-19 are significant, far reaching, and without precedent. Further, the true magnitude and longevity of such impacts are yet to be determined.
- [8] Dr. Richard, in his response, suggests that simply delaying the Board's decision will lead to uncertainty in already difficult financial times. As an alternative, he suggests that this Matter could be withdrawn in its entirety.
- [9] Mr. Bourque submits that the Board should issue its decision. He notes that he raised his concerns during the course of the hearing and that, in his view, the application should be denied based on his concerns.
- [10] Ms. Black submits that it is in the public interest that the Board adjourn this matter, for the reasons that NB Power set out in its Motion. Ms. Black states that an adjournment of the proceeding is preferable to the Board delaying its decision, since an adjournment preserves NB Power's ability to file new evidence as may be required. She also states that an adjournment avoids the need for the Board to determine which of its orders and directions can and cannot be implemented by NB Power. She suggests that the Board adjourn this matter to a specific date and time. In her view, this would limit the duration of any adjournment, but still retain the Board's ability to extend it from time to time, if extensions are justified.

- [11] Mr. Stoll also supports an adjournment and agrees with Ms. Black's submissions.
- [12] Any decision of the Board must balance both the interests of NB Power and those of the ratepayers. The Board is independent and must adjudicate fairly and completely on the matter before it. The Board also has a wide range of procedural powers, including section 38 of the *Energy and Utilities Board Act*, which provides that the Board is the master of its own procedures. Furthermore, section 1 of the Board's *Rules of Procedure* states in part, that the Board may, at any time, make an order with respect to its procedure.
- [13] Having considered the submissions, the Board does not believe the Matter should be withdrawn as there have been extensive efforts in the past months to file evidence and conduct a hearing. A final decision in this matter should be issued to bring it to a close.
- [14] At the same time, a decision with respect to AMI is not immediately required, given that NB Power has made the decision to move its operations to mission critical work only, until further notice.
- [15] Given our rapidly changing circumstances, the Board finds that setting this matter over, to be finalized at a future date, will best serve the interests of both NB Power and New Brunswick ratepayers. In this instance, the Board finds that it is reasonable that this Matter be adjourned *sine die*.

#### **D. Conclusion**

- [16] Having considered NB Power's Motion and the written submissions of the parties in response to the Motion, the Board makes the following orders:
- a. The Board will adjourn this matter, *sine die*, until further notice of the Board; and
  - b. After the state of emergency has been terminated, the Board will be in contact with NB Power and the interveners with respect to the next steps.

Dated at Saint John, New Brunswick, this 24<sup>th</sup> day of March, 2020.



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François Beaulieu  
Acting Chairperson



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Michael Costello  
Member



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Patrick Ervin  
Member